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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/786,024	07/05/2001	Long Yu	A34054 PCTUSA	3983

21003 7590 05/05/2003

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NEW YORK, NY 10112

EXAMINER

FRONDA, CHRISTIAN L

ART UNIT	PAPER NUMBER
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1652

DATE MAILED: 05/05/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory ActionApplication No.
09/786,024Applicant(s)
Yu et al.Examiner
Christian L. FrondaArt Unit
1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Dec 9, 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on Mar 12, 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see NOTE below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: SEE ATTACHED PAPER

3. ☐ Applicant's reply has overcome the following rejection(s):

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because:

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 3 and 15

Claim(s) objected to: 11

Claim(s) rejected: 1 and 6-10

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

10. ☐ Other:

Art Unit: 1652


ADVISORY ACTION

1. Claim 1 stands rejected under 35 U.S.C. 102(b) as being anticipated by Hillier et al. (Accession AA398583). Although Hillier et al. is silent to teaching that the nucleotide sequence encodes a lysozyme having amino acids 19-146 of SEQ ID NO: 4, the nucleotide sequence would inherently have the property of encoding the claimed lysozyme comprising amino acids 19-146 of SEQ ID NO: 4 (see MPEP 2112). Amending the claim to recite that the lysozyme consists of amino acids 19-146 of SEQ ID NO: 4 may overcome the rejection.

Claims 6-10 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Guan et al. (US Patent 5,643,758) in view of Hillier et al. (Accession AA398583) for reasons of record.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christian L. Fronda whose telephone number is (703)305-1252. The Examiner can be contacted Monday-Friday from 8:30AM - 5:00PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapura Achutamurthy, can be reached at (703)308-3804. Any inquiry of a general nature or relating to the status of this application should be directed to the Group 1600 receptionist whose telephone number is (703)308-0196.

CLF


PONNATHAPURACHUTAMURTHY
SUPERVISORY PATENT EXAMINER
TECHNICAL CENTER 1600